

**UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

Chicago, Illinois

WASHINGTON AND JANE SMITH COMMUNITY--
BEVERLY d/b/a SMITH VILLAGE¹

Employer

and

Case 13-RC-21508

SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 4

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing on this petition was held on June 21 and 22, 2006 before a hearing officer of the National Labor Relations Board, herein referred to as the Board, to determine whether it is appropriate to conduct an election in light of the issues raised by the parties.²

I. Issues

The Service Employees International Union, Local 4 (herein “Petitioner” or “Union”) petitioned for an election within a unit comprised of all regular full time and part time Certified Nursing Assistants (CNA’s), Unit Assistants, Housekeeping Employees, Laundry Employees, Cooks, Dietary Employees, Maintenance Employees, Ancillary Employees, Central Supply, Medical Records, and Ward Clerks employed by Washington and Jane Smith Community—Beverly d/b/a Smith Village (herein “Employer”) at its facility currently located at 2315 W. 112th Place, Chicago, Illinois (herein “Smith Village”). At the hearing, the Petitioner amended the petition by deleting the reference to the ancillary employees and substituting activity assistants and life-enrichment facilitators for inclusion in the unit. The Petitioner also amended the exclusions to specifically name the Marketing Employees and the Receptionists.

¹ The name of the Employer was amended at the hearing to reflect its correct name.

² Upon the entire record in this proceeding, the undersigned finds:

- a. The hearing officer’s rulings made at the hearing are free from prejudicial error and are hereby affirmed.
- b. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
- c. The labor organization involved claims to represent certain employees of the Employer.
- d. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.

The Employer contends that the bargaining unit sought by the Petitioner limited to the single facility is not appropriate and should include its employees in the same job classifications who are located at the Employer's facility located at 10501 Emily Lane, Orland Park, Illinois (Smith Crossing"). The Employer also contends that the bargaining unit should include the marketing employees and the receptionists at both facilities. The Petitioner disagrees and seeks to represent only the employees at Smith Village excluding the Marketing Employees and Receptionists. Thus, the issues to be decided include (1) whether the appropriate unit is one that includes both the Smith Village and Smith Crossing facilities; and (2) whether the Marketing employees and Receptionists should be included in the appropriate bargaining unit.

II. Decision

Based on the entire record of this proceeding and for the reasons set forth below, I find that the petitioned-for unit at Smith Village alone including the Receptionists but excluding the Marketing employees is an appropriate unit for collective bargaining.

Accordingly, IT IS HEREBY ORDERED that an election be conducted under the direction of the Acting Regional Director for Region 13 in the following bargaining unit:

All regular full time and part time Certified Nursing Assistants (CNA's), Unit Assistants, Housekeeping Employees, Laundry Employees, Cooks, Dietary Employees, Maintenance Employees, Activity Assistants, Life-enrichment facilitators, Central Supply, Medical Records, Ward Clerks, and Receptionists employed by the Employer at its Smith Village facility currently located at 2315 W. 112th Place, Chicago, Illinois; but excluding clerical employees, registered nurses, licensed practical nurses, professional employees, marketing employees, managers, department heads, guards, supervisors as defined by the Act, and all other employees.

III. Statement of Facts

A. Overview of the Employer's Operation.

The Employer operates a "continuing care retirement community" (herein "CCRC") at its Smith Village location. The CCRC concept involves the provision of various services as required by individuals who reside in the facility. The levels of "sheltered care" provided vary depending upon whether the resident lives in "independent" living, assisted living, or requires skilled care. The skilled care level of services is akin to those provided in nursing homes. The Employer is one of two separate entities along with the employer at Smith Crossing and under the umbrella of Smith Senior Living (herein "Smith Senior Living" or "corporate") comprising a larger organization. All three entities are organized as Illinois not-for profit corporations and

registered with the State and various State agencies as required by law for nursing homes.³ There is no history of collective bargaining for the employees sought to be represented herein.

1. Smith Senior Living

The parent corporation, Smith Senior Living, provides management oversight and various services to Smith Village and Smith Crossing. The corporate headquarters for Smith Senior Living is located at 12015 S. Western Avenue in Blue Island, Illinois. The extended organization comprised by Smith Senior Living, Smith Crossing, and Smith Village is headed by CEO Michael Flynn. He interacts with the Board of trustees and oversees the entire organization. The Executive Directors, one each at Smith Village and Smith Crossing, report to the CEO. The Executive Directors are responsible for the day to day operations at their respective CCRC facility with assistance provided by Smith Senior Living, including accounting, information technology and human resources.

At Smith Senior Living, the business office and accounting office is headed by a Controller who reports to the CEO. The accounting department provides services to both Smith Village and Smith Crossing. The corporate accounting department insures that all basic monthly reporting requirements are met. Also, the corporate accounting department provides accounts payable, bookkeeping, and billing services for all three entities.

Similarly, Smith Senior Living provides information technology services to Smith Village and Smith Crossing. The IT department is located at the Smith Senior Living facility and is responsible for both computer and telephone services at all three locations. With respect to telephone services, the IT department insures that all business and resident phones work and that residents are billed properly for their phone service. In addition, the IT department purchases and maintains all computer hardware for the organization, insures software licenses are intact at all 3 locations, and trains new employees on log-in/log-out procedures and basic computer functions. The IT department also provides a “Help Desk” in support of the computer system.

Likewise, the Smith Senior Living provides human resource services to Smith Village and Smith Crossing. The Human Resource (herein “H/R”) department consists of a director and 2 support individuals who are also assigned one each to Smith Village and Smith Crossing and spend four to five days per week at their respective facilities. The Human Resources Director oversees the benefit programs and payroll services provided by corporate to the two facilities. The H/R director’s duties include annual negotiations for health insurance plans, changes to other benefit plans, and responsibility for compliance issues concerning background checks. The two support individuals provide services that mirror each other at their respective facilities. The H/R department provides support to Smith Village and Smith Crossing regarding the hiring of employees by placing ads in the newspaper and soliciting resumes. Once applications are received, the H/R department screens them and submits those who are qualified to the local hiring manager for review and use in interviewing and selecting a new employee. New

³ No parties claim nor has any party raised an issue whether the three entities constitute a single integrated enterprise or are three separate employing entities. For purpose of this decision, I have treated these three corporations as a single integrated enterprise.

employees are hired at the local level at Smith Village and Smith Crossing. Thereafter, the H/R department conducts new employee orientation consisting of 2 hours of basic training regarding the organizations benefits and policies contained in the organization-wide employee handbook. The new hires also receive two hours of State required dementia training concerning protocol for dealing with individuals with memory loss. Additional orientation training is provided to employees in the organization each year by the H/R department. The employee handbook, forms, job descriptions and performance evaluations are developed by the corporate H/R department and used at Smith Village and Smith Crossing. Wages and benefits for Smith Village and Smith Crossing are set, in general, at the corporate level. However, individual employee wage rates are set by local management based upon the corporate wage scale and the employee's years of experience. Full time employees work at least 35 hours per week while part time employees work from 10 to 20 hours per week. All H/R, IT and Accounting department employees are employed at Smith Senior Living and perform their respective job functions at the corporate level. The individual Smith Village and Smith Crossing corporations pay a fee based upon a percentage of the yearly gross revenue to Smith Senior Living for these services.

2. Smith Village.

Washington and Jane Smith Community – Beverly d/b/a Smith Village has been in existence for approximately 82 years. Smith Village is a CCRC facility that provides all three levels of long term care – independent, assisted living, and skilled care. Smith Village, like Smith Crossing, is a separate corporation from Smith Senior Living and is independently licensed by the State. Executive Director Phil Hemmer is in charge of the Smith Village facility and oversees the day to day operations there. Smith Village provides housekeeping, laundry, nursing and food services, and activities for the residents. There are approximately 175 residents and about 200 employees at Smith Village. All of the department heads at the facility plus the Marketing director report to Hemmer.

Currently, Smith Village is constructing a new commons building expected to be completed some time in 2007. Approximately 80% of the Smith Village facility was torn down to make way for the new building which will include 82 units for assisted living residents in the first phase of construction and 152 units for independent living in the second phase. As a consequence of the new construction, the marketing department has been relocated to a separate building about 8 blocks from Smith Village. Also, three laundry aides (two full time and one part time) have been relocated to the Smith Crossing facility where they work with one Smith Crossing laundry aide.⁴ Together they do the laundry for both the Smith Village and Smith Crossing facilities. The Smith Village laundry is brought to the Smith Crossing facility by a Smith Village maintenance employee who drives a pick-up truck pulling a trailer on which carts of dirty laundry are loaded. The maintenance employee returns to the Smith Village facility with clean laundry. This round trip take about one and one-half hours and is performed two times each day. The Smith Village laundry employees have been working at the Smith Crossing facility since the demolition of buildings began at Smith Village and are expected to be stationed

⁴ The parties stipulated at the hearing that laundry aide Monique Jones works three days per week at Smith Village and 2 days per week at Smith Crossing where she alternates working Friday and Monday one week and Saturday and Sunday the next week. Thus, Jones works full time and is carried on the Smith Village payroll. Smith Crossing reimburses Smith Village for the time Jones spends working at Smith Crossing.

at Smith Crossing for about another year and one-half. They are supervised by the Director of Environmental Services.

In addition to driving the laundry between facilities, the maintenance employees at Smith Village maintain the physical plant. This includes the heating, air conditioning and electrical systems, plumbing, changing light bulbs and performing various other tasks related to the mechanical upkeep of the buildings. The maintenance employees wages range from \$13 or \$14 per hour to about \$20.00 per hour. If the maintenance employees cannot repair something, the Employer hires outside contractors to do so. There is a painter in the maintenance department who spends approximately half of his time at each facility. The painter is paid about \$18.00 per hour. Housekeepers who perform floor maintenance are paid about \$10.00 per hour.

At Smith Village, the CNA's are immediately supervised by the charge nurse or coordinator. The Smith Village CNA's wages are about 50 cents per hour less than at Smith Crossing. The housekeeper's report to the director or assistant director of environmental services as do the laundry aides. The employees at Smith Village receive various benefits including: health, dental, and life insurance; pension plan, a free meal during each shift they work; seven paid holidays, personal days, paid sick time and vacations; bereavement pay; summer picnics, Thanksgiving meal and Christmas party; Holiday turkey, Christmas bonus, free parking, free flu and hepatitis B shots; and tuition reimbursement. Full time employees receive certain benefits like insurance whereas part time employees do not. However, all of the employees receive other benefits such as the holiday turkeys and Christmas bonus. All of the employees receive a copy of the employee handbook when hired and work under the Employer's policies contained therein.

2. Smith Crossing.

Smith Crossing is a CCRC like Smith Village and located about 20 miles from Smith Village⁵. Executive Director Kevin McGee oversees the day to day operations at Smith Crossing. The various departments at Smith Crossing are organized in the same way as Smith Village. The job classifications, benefits, and policies that apply to the employees at Smith Crossing are the same as at Smith Village. Like Smith Village, the hiring decisions are made by local management with the assistance of the corporate H/R department. The three laundry aides from Smith Village are working at this facility while the construction at Smith Village is taking place. They are carried on the Smith Village payroll. The laundry aides and the maintenance employees from Smith Village who transport the Smith Village laundry between the facilities interact with the Smith Crossing laundry aide. Employees from either facility may bid on jobs at Smith Village and Smith Crossing. However, during approximately the past one and one-half years, the only instance of inter-facility job change in the record involved an employee who worked at Smith Village and Smith Crossing who quit her job at Smith Village in order to work exclusively at Smith Crossing. There are no temporary transfers of employees from Smith

⁵ At one point in the record, the distance between the facilities is given as approximately six miles. In the Employer's brief the distance is given as approximately 20 miles. A Mapquest search gives the distance as 22 miles.

Crossing to Smith Village or vice versa. The painter from Smith Village is a shared employee who also works half of the time at Smith Crossing.⁶

B. Contested Employees.

1. Marketing Employees.

The Smith Village Marketing Department is located at 104th Street and Western Avenue in Chicago about eight blocks from the main Smith Village facility. The Marketing Department is managed by the Marketing Director who supervises and directs the sales person and a sales counselor who do full time selling, i.e. sell the Employer's services to individuals to obtain residents for the facility. The Marketing Director is responsible for the department's budget, hiring for the department, and that the sales people are properly prepared to do their presentations for potential residents. There is also an office manager who also functions as a receptionist and a telemarketer. The department includes a "move-in coordinator" who meets with persons who have placed a deposit ("depositors") to move into the new Smith Village facility when construction is complete. The move-in coordinator assists the depositors in selecting paint and carpet colors and other upgrades. Everyone in the Marketing Department is salaried except for the telemarketer who is paid \$12.00 per hour without benefits and works from 10:00 a.m. to 2:00 p.m. on Mondays through Fridays. The telemarketer makes cold calls to solicit business for the Employer but does not have any contact with other employees or the residents. The sales people have occasional contact with other employees when they show the facility to potential residents. Although the telemarketer does not receive any benefits, she is covered by the same employee handbook as the other employees. The Employer anticipates that the Marketing Department will move back to the Smith Village campus when construction is completed in 2007.⁷

2. Receptionists

The receptionists at Smith Village report to the Director of Admissions and Social Services. The Director coordinates the admissions of new residents from the community and hospitals into the CCRC and supervises the social workers and receptionists. There are nine part time including an unpaid volunteer and one full time receptionist at Smith Village. The receptionists operate the switchboard and answer the telephone for residents and staff and work with the residents, their families and the facility staff to coordinate services in a concierge-like fashion. The receptionists receive and deliver mail and packages for residents and interact with other employees. Their duties include keeping track of where residents are, informing the dining service staff if a resident is out and will miss a meal, and inform the nurses if a resident has left a floor. The receptionists at Smith Village work at two locations in the facility. The primary

⁶ The Assistant H/R Director provided testimony concerning interaction between employees employed at Smith Village and Smith Crossing. This testimony pertained to individual relationships such as sisters, mother-son, and boyfriend-girlfriend employees at both facilities. Other than for the work interaction of Smith Village and Smith Crossing painter, laundry aides and maintenance employees detailed above, no other details were provided concerning the interaction among employees of these two facilities.

⁷ The record does not contain details concerning a marketing department or marketing department employees at Smith Crossing.

location is the main lobby entrance for the facility for the residents and staff and is used for deliveries. The second location is referred to as the Oakley Avenue entrance which is the entrance for the skilled care area where the receptionist sits at the nurses station. The Oakley Avenue entrance is used by the skilled care staff and for visitors. All receptionists are trained for both locations.

The switchboard is monitored from 7:00 a.m. to 9:00 p.m. and the front desk is manned from 8:00 a.m. to 9:00 p.m. while the back desk is manned from 7:00 a.m. to 9:00 p.m. seven days per week. A security guard sits at the front desk from 8:00 p.m. to 9:00 p.m. The areas where the receptionists work are high traffic areas in terms of residents and staff. The receptionists will coordinate with activity aides in various matters such as contacting and notifying residents about a wake or funeral and determining their interest in attending. This information is passed on by the receptionist to the activity aides so that transportation for the residents can be arranged.

Wage rates for the receptionists range from \$7.59 to 11.00 per hour. The full time receptionist receives benefits while the part time receptionists do not. One part time receptionist is an unpaid volunteer who works from 8 to 12 hours per week. If there is no part time receptionist available to relieve the receptionist, a housekeeper or the Director of Administration and Social Services will fill in at the receptionist's desk. One receptionist, Tina Bentley, works at both Smith Village and Smith Crossing. However, the parties stipulated at the hearing that Bentley has only worked 11.25 hours at Smith Crossing thus far during calendar year 2006.

IV. Analysis

A. Appropriateness of the Single Facility Unit

There is nothing in the Act that requires the unit for bargaining be the only appropriate unit or the most appropriate unit – the Act only requires that the unit for bargaining be “appropriate” so as to assure employees the fullest freedom in exercising the rights guaranteed by the Act. *Overnite Transportation Co.* 322 NLRB 723 (1996); *Brand Precision Services*, 313 NLRB 657 (1994); *Phoenix Resort Corp.*, 308 NLRB 826 (1992). Moreover, the Board's procedure for determining an appropriate unit under Section 9(b) is to examine first the petitioned-for unit. If that unit is appropriate, then the inquiry into the appropriate unit ends. *Boeing Co.*, 337 NLRB 152 (2001). The burden is on the party challenging the unit to show that the petitioned-for bargaining unit is inappropriate; if the unit sought by the petitioning labor organization is appropriate, the inquiry ends. *P.J. Dick Contracting, Inc.*, 290 NLRB 150, 151 (1988). Thus, in the instant matter, the burden is on the Employer to demonstrate that the unit sought by the Petitioner is inappropriate. Furthermore, it is well established that a single-facility unit in the health care industry is presumptively appropriate. *Manor Healthcare Corp.*, 285 NLRB 224 (1987). The Board applies the single-facility presumption to nursing homes. *Visiting Nurses Assn. of Central Illinois*, 324 NLRB 55 (1997). As the party opposing the single-facility unit, the Employer has the heavy burden of overcoming the presumption. *Trane*, 339 NLRB 866 (2003); *Visiting Nurses Association of Central Illinois, supra*. In order to rebut the single facility presumption, the Employer must demonstrate integration so substantial as to negate the separate identity of the single facility. *Heritage Park Health Care Center*, 324 NLRB 447, 451 (1997),

enfd. 159 F.3d 1346 (2d Cir. 1998). In determining whether the separate identity of the single facility has been rebutted, the Board examines factors such as centralized control over daily operations and labor relations, including the extent of local autonomy; the degree of employee interchange, transfer, and contact; functional integration; similarity of skills, functions, and working conditions; geographic proximity; and bargaining history. *New Britain Transportation*, 330 NLRB 397 (1999); *West Jersey Health System*, 293 NLRB 749, 751 (1989). Moreover, the Board considers the degree of interchange and separate supervision to be of particular importance in determining whether the single-facility presumption has been rebutted. *Passavant Retirement & Health Center*, 313 NLRB 1216, 1218 (1994); *Heritage Park Health Care Center*, *supra*.

Based on the entire record in this matter, I find that the appropriateness of a single facility unit has not been rebutted. Smith Village and Smith Crossing each maintain their separate identities based upon separate day-to-day management and supervision of each facilities operations, geographical separation, and minimal interchange or interaction of employees between the two facilities. In short, each facility is a capable and operational stand-alone facility from the other facility, regardless of the identical oversight provided by Smith Senior Living.

While, as the Employer notes, there are factors in the record which would support a finding that a combined unit of employees at Smith Village and Smith Crossing would constitute an appropriate unit, this does not negate the appropriateness of the petitioned for single facility unit on the record herein. Thus, the record shows that the employees at Smith Village and Smith Crossing are governed by the same handbook policies, receive the same benefits, work in the same job classifications, are subject to the same oversight by Smith Senior Living, and there are a few shared employees. However, the fact that multi-facility unit may also be appropriate does not support a finding that the petitioned for single facility unit is not appropriate. It is well settled that there is more than one way in which an employer's employees can be appropriately grouped for collective bargaining. *General Instrument Corp., v. NLRB*, 319 F.2d 420, 422-423 (4th Cir. 1963), cert. denied 375 U.S. 966 (1964). If the petitioned for unit is appropriate, the inquiry ends, and it is of no consequence if, *assuming arguendo*, a multi-facility units is also appropriate, or even more appropriate than a single facility unit. All that is required is that the petitioned for unit constitutes an appropriate unit. *Boeing Co.*, 337 NLRB No. 37, slip op. 2 (2001); *Morand Bros. Beverage Co.*, 91 NLRB 409 (1950), enfd. on other grounds 190 F.2d 576 (7th Cir. 1951). Here, I have found the petitioned for single facility unit to be appropriate as there is substantial management and supervisory autonomy at Smith Village, the petitioned for unit, and that there is no significant interchange or transfer and contact of employees between the two facilities the Employer.

In its argument for a multi-facility unit, the Employer relies upon the Board's decisions in *St. Luke's Health System, Inc.*, 340 NLRB 1171 (2003) and *Lutheran Welfare Services, of Northeastern Pennsylvania, Inc.*, 319 NLRB 886 (1995). I find these cases to be factually distinguishable and unpersuasive. In *St. Luke's Health System*, the Board found that employees at 21 clinics employed by the same employer to be an appropriate unit. The clinics were not separately licensed, and the Board found that there was significant interchange among the employees at the clinics regarding both permanent and temporary transfers. In the instant matter, the employees at Smith Village and Smith Crossing are employed by separately incorporated and

separately licensed employing entities, and there is significantly less interchange between the employees at the two facilities. In *Lutheran Welfare Services*, the Board found that employees of the same employer who worked in two different buildings at the same location separated by about 200 feet and a parking lot used by employees and guests for both buildings to be an appropriate unit. These factors are not present here. Smith Village and Smith Crossing are separated by about 20 miles and the employees are not subject to the degree of interaction or interchange found in *Lutheran Welfare Services*.

B. Unit Placement

1. Marketing Department employees.

The Employer seeks to include the marketing department employees in the appropriate unit claiming that they share a strong community of interest including common supervision with the employees in the petitioned-for unit. In determining the community of interest of employees in a petitioned-for unit, the Board examines such factors as wages, hours and working conditions, commonality of supervision, degree of skill and common functions, frequency of contact and interchange with other employees, and functional integration. *Boeing Co.*, 337 NLRB at 153. The record shows and I find, contrary to the Employer, that the marketing department employees at Smith Village do not share a sufficient community of interest with the other employees sought by the Union to require their inclusion in the unit.

The record shows and I find that the marketing department employees work in a location separate from the petitioned-for employees, are paid by salary (except for the telemarketer) rather than hourly, perform job functions distinct from the employees in the unit found appropriate, and have separate supervision from the employees in the unit sought by the Union. Although the marketing department employees may occasionally interact with petitioned-for unit employees at Smith Village when the marketing employees take potential residents on a tour of the facility, there is no evidence of any interchange or transfer of employees between the marketing department and those who work in the other job classifications the union seeks to represent. The record shows and I find that the Marketing department employees are outside sales people who perform duties not related directly or indirectly to the care of the residents like the employees in the petitioned-for unit who are directly involved in providing resident care services. Accordingly, I shall exclude the marketing department employees from the appropriate unit.

2. The Receptionists.

Unlike the marketing department employees, the record shows and I find, contrary to the Union, that the receptionists do share a community of interest with the other employees in the job classifications the Union seeks to represent. The Union contends that the receptionists' community of interest differs from the rest of the petitioned-for unit due to: (1) different hours and working conditions; (2) uniqueness of function; (3) lack of common supervision; and (4) limited interaction with other employees. I disagree.

Specifically, the record shows and I find that the receptionists work in the same buildings with and at times when the petitioned-for employees are on duty, are subject to the same local supervision, are hourly paid, and have job duties directly related to providing resident care services like the petitioned-for employees. They receive the same benefits and work under the same policies as the rest of the employees at Smith Village. The record shows and I find that there is significant interaction, interchange, and contact between the receptionists and the other employees in the petitioned-for unit at Smith Village. Specifically, the housekeepers fill-in as receptionists when necessary for breaks, and the receptionists work at the main entrance, accept and deliver packages for the residents and the facility staff, and are engaged in other activities that affect patient care. Accordingly, I find that the receptionists at Smith Village share a significant community of interest with the petitioned-for employees and, therefore, I shall include them in the appropriate unit.

V. Direction of Election

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by Service Employees International Union, Local 4.

VI. Notices of Election

Please be advised that the Board has adopted a rule requiring election notices to be posted by the Employer at least three working days prior to an election. If the Employer has not received the notice of election at least five working days prior to the election date, please contact the Board Agent assigned to the case or the election clerk.

A party shall be estopped from objecting to the non-posting of notices if it is responsible for the non-posting. An employer shall be deemed to have received copies of the election notices unless it notifies the Regional Office at least five working days prior to 12:01a.m. of the day of the election that it has not received the notices. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure of the Employer to comply with these posting rules shall be grounds for setting aside the election whenever proper objections are filed.

VII. List of Voters

To insure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is directed that 2 copies of an eligibility list containing the full names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within 7 days from the date of this Decision. *North Macon Health Care Facility*, 315 NLRB 359, fn. 17 (1994). The Regional Director shall make this list available to all parties to the election. In order to be timely filed, such list must be received in Region 13's Office, 209 South LaSalle Street, 9th Floor, Chicago, Illinois 60604, on or before **July 14, 2006**. No extension of time to file this list will be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

VIII. Right to Request Review

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street NW, Washington, DC 20005-3419. This request must be received by the Board in Washington by **July 21, 2006**.

DATED at Chicago, Illinois this 7th day of July, 2006.

Gail R. Moran
Acting Regional Director
National Labor Relations Board
Region 13
209 South LaSalle Street, 9th Floor
Chicago, Illinois 60604

CATS - UntFA

Blue Book 177-9762
401-7575
470-8500